

Senate Bill No. 771

Passed the Senate June 4, 2003

Secretary of the Senate

Passed the Assembly September 8, 2003

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2003, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend and renumber Sections 125115, 125116, and 125117 of, to add Section 125305 to, to add the headings of Part 5.5 (commencing with Section 125300) and Chapter 1 (commencing with Section 125300) to Division 106 of, and to repeal the heading of Article 5 (commencing with Section 125115) of Chapter 1 of Part 5 of Division 106 of, the Health and Safety Code, relating to human tissue.

LEGISLATIVE COUNSEL'S DIGEST

SB 771, Ortiz. Human cells: embryo registry: egg cell donation.

Existing law declares the policy of the state that research involving the derivation and use of human embryonic stem cells, human embryonic germ cells, and human adult stem cells from any source, including somatic cell nuclear transplantation, shall be permitted, as specified. Existing law authorizes the donation of a human embryo pursuant to specific requirements and prohibits the purchase or sale of embryonic or cadaveric fetal tissue for research purposes.

This bill would require the State Department of Health Services, to the extent that private or other nonstate funding sources are available, to establish and maintain an anonymous registry of embryos that would provide researchers with access to embryos that are available for research purposes.

Existing law requires a physician and surgeon or other health care provider delivering fertility treatment to provide to his or her patient designated information regarding the disposition of any human embryos remaining after the fertility treatment and requires the individual electing to donate embryos to provide written consent.

This bill would make the failure to provide information pursuant to the above requirement unprofessional conduct. This bill would specify requirements for obtaining informed consent from any individual considering donating embryos for research. This bill would require a physician and surgeon or other health care provider to provide a form that sets forth advanced written



directives regarding the disposition of embryos in specified circumstances.

The people of the State of California do enact as follows:

SECTION 1. The heading of Article 5 (commencing with Section 125115) of Chapter 1 of Part 5 of Division 106 of the Health and Safety Code is repealed.

SEC. 2. Section 125115 of the Health and Safety Code is amended and renumbered to read:

125300. The policy of the State of California shall be as follows:

(a) That research involving the derivation and use of human embryonic stem cells, human embryonic germ cells, and human adult stem cells from any source, including somatic cell nuclear transplantation, shall be permitted and that full consideration of the ethical and medical implications of this research be given.

(b) That research involving the derivation and use of human embryonic stem cells, human embryonic germ cells, and human adult stem cells, including somatic cell nuclear transplantation, shall be reviewed by an approved institutional review board.

SEC. 3. Section 125116 of the Health and Safety Code is amended and renumbered to read:

125315. (a) A physician and surgeon or other health care provider delivering fertility treatment shall provide his or her patient with timely, relevant, and appropriate information to allow the individual to make an informed and voluntary choice regarding the disposition of any human embryos remaining following the fertility treatment. The failure to provide to a patient this information constitutes unprofessional conduct within the meaning of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(b) Any individual to whom information is provided pursuant to subdivision (a) shall be presented with the option of storing any unused embryos, donating them to another individual, discarding the embryos, or donating the remaining embryos for research. When providing fertility treatment, a physician and surgeon or other health care provider shall provide a form to the male and female partner, or the individual without a partner, as applicable, that sets forth advanced written directives regarding the



disposition of embryos. This form shall indicate the time limit on storage of the embryos at the clinic or storage facility and shall provide, at a minimum, the following choices for disposition of the embryos based on the following circumstances:

(1) In the event of the death of either the male or female partner, the embryos shall be disposed of by one of the following actions:

- (A) Made available to the living partner.
- (B) Donation for research purposes.
- (C) Thawed with no further action taken.
- (D) Donation to another couple or individual.
- (E) Other disposition that is clearly stated.

(2) In the event of the death of both partners or the death of a patient without a partner, the embryos shall be disposed of by one of the following actions:

- (A) Donation for research purposes.
- (B) Thawed with no further action taken.
- (C) Donation to another couple or individual.
- (D) Other disposition that is clearly stated.

(3) In the event of separation or divorce of the partners, the embryos shall be disposed of by one of the following actions:

- (A) Made available to the female partner.
- (B) Made available to the male partner.
- (C) Donation for research purposes.
- (D) Thawed with no further action taken.
- (E) Donation to another couple or individual.
- (F) Other disposition that is clearly stated.

(4) In the event of the partners' decision or a patient's decision who is without a partner, to abandon the embryos by request or a failure to pay storage fees, the embryos shall be disposed of by one of the following actions:

- (A) Donation for research purposes.
- (B) Thawed with no further action taken.
- (C) Donation to another couple or individual.
- (D) Other disposition that is clearly stated.

(c) A physician and surgeon or other health care provider delivering fertility treatment shall obtain written consent from any individual who elects to donate embryos remaining after fertility treatments for research. For any individual considering donating the embryos for research, to obtain informed consent, the health care provider shall convey all of the following to the individual:



(1) A statement that the early human embryos will be used to derive human pluripotent stem cells for research and that the cells may be used, at some future time, for human transplantation research.

(2) A statement that all identifiers associated with the embryos will be removed prior to the derivation of human pluripotent stem cells.

(3) A statement that donors will not receive any information about subsequent testing on the embryo or the derived human pluripotent cells.

(4) A statement that derived cells or cell lines, with all identifiers removed, may be kept for many years.

(5) Disclosure of the possibility that the donated material may have commercial potential, and a statement that the donor will not receive financial or any other benefits from any future commercial development.

(6) A statement that the human pluripotent stem cell research is not intended to provide direct medical benefit to the donor.

(7) A statement that early human embryos donated will not be transferred to a woman's uterus, will not survive the human pluripotent stem cell derivation process, and will be handled respectfully, as is appropriate for all human tissue used in research.

SEC. 4. Section 125117 of the Health and Safety Code is amended and renumbered to read:

125320. (a) A person may not knowingly, for valuable consideration, purchase or sell embryonic or cadaveric fetal tissue for research purposes pursuant to this chapter.

(b) For purposes of this section, "valuable consideration" does not include reasonable payment for the removal, processing, disposal, preservation, quality control, storage, transplantation, or implantation of a part.

(c) Embryonic or cadaveric fetal tissue may be donated for research purposes pursuant to this chapter.

SEC. 5. A heading is added as Part 5.5 (commencing with Section 125300) of Division 106 of the Health and Safety Code, to read:



PART 5.5. USE OF HUMAN CELLS

SEC. 6. A heading is added as Chapter 1 (commencing with Section 125300) of Part 5.5 of Division 106 of the Health and Safety Code, to read:

CHAPTER 1. EMBRYO REGISTRY

SEC. 7. Section 125305 is added to the Health and Safety Code, to read:

125305. (a) The department shall establish and maintain an anonymous registry of embryos that are available for research. The purpose of this registry is to provide researchers with access to embryos that are available for research purposes.

(b) The department may contract with the University of California, private organizations, or public entities to establish and administer the registry.

(c) This section shall be implemented only to the extent that funds for the purpose of establishing and administering the registry are received by the department from private or other nonstate sources.



Approved _____, 2003

Governor

